



INTERIOR BOARD OF INDIAN APPEALS

Bobbie Ray Preckwinkle, Steven Rice, and Chad Siva v. Pacific Regional Director, Bureau
of Indian Affairs

44 IBIA 45 (12/21/2006)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

BOBBIE RAY PRECKWINKLE,	:	Order Docketing and Dismissing
STEVEN RICE, and CHAD SIVA,	:	Appeal
Appellants,	:	
	:	
v.	:	
	:	Docket No. IBIA 07-51-A
PACIFIC REGIONAL DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee.	:	December 21, 2006

On December 20, 2006, the Board of Indian Appeals (Board) received a notice of appeal from Bobbie Ray Preckwinkle, Steven Rice and Chad Siva (Appellants), through their counsel, Carole M. Ross, Esq. Appellants seek review of a November 15, 2006 decision of the Pacific Regional Director, Bureau of Indian Affairs (Regional Director), denying Appellants' request for production of certain documents for use in litigation not involving the United States. We docket the appeal but dismiss for lack of jurisdiction.

The Board's jurisdiction is limited to the authority vested in it by regulation or otherwise delegated to it by the Secretary of the Interior. See 43 C.F.R. § 4.1(b)(2); see also 25 C.F.R. § 2.4(e) (same); Delmar v. Acting Navajo Regional Director, 40 IBIA 184 (2005) (same). Thus, the Board has jurisdiction to review those decisions made by Regional Directors pursuant to 25 C.F.R. Chapter 1.

Appellants' request for production of documents and the Regional Director's decision both were made pursuant to regulations found at 43 C.F.R. §§ 2.80 et seq. See Touhy v. Ragen, 340 U.S. 462 (1951). No regulation or delegation grants the Board authority or jurisdiction to review BIA actions taken under the authority of Title 43 of the Code of Federal Regulations. 1/

1/ We note that the Regional Director's decision advised Appellants that they had a right of appeal to this Board. Ordinarily, these instructions would be correct as the Regional Director frequently renders decisions pursuant to his authority under Title 25 of the Code of Federal Regulations. The decision under review, however, is an exception, and the Regional Director's appeal instructions were incorrect.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed but dismissed for lack of jurisdiction.

I concur:

// original signed
Debora G. Luther
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge